

Once you complete the request, you must file it with the district court that entered your small claims judgment. The filing fee is \$15.00.

The court will issue the writ by signing the form. The request and writ must be served on the garnishee along with **form MC14, garnishee disclosure**. If the garnishment is for periodic payments, include a \$6.00 disclosure fee with the forms.

When Do I Get My Money from the Garnishment?

The garnishee has 14 days after the writ is served to let you, the court, and the defendant know if any money is available for garnishment. This information must be provided on the garnishee disclosure. If you are trying to garnish wages, you will only receive part of the wages based on a federal formula. If there are no objections from the defendant, the withheld money will be automatically sent to you after 28 days. If the garnishment is for periodic payments, money will continue to be sent to you as payments become due to the defendant until the writ expires.

This legal information is not intended to be a substitute for legal advice. You should talk with an attorney if you have any questions about how this information applies to your own problem or facts.

Legal content verified by 8th District Court.
January 2005



KALAMAZOO
PUBLIC
LIBRARY

www.kpl.gov

LAW LIBRARY

IN A NUTSHELL

Collecting Money From a Small Claims Judgment

How Much Can I Collect?

You can collect the amount stated in your judgment (form DC 85) plus any interest that accumulates during the time the other party pays off the judgment.

How Can I Collect My Money?

1. If the other party has the money and is present at the trial, they can pay you right then.
2. If they do not have the money at that time and you both agree at the trial, the judge can set up a payment schedule. If the defendant is not present at the trial, the court will send a copy of the small claims judgment to the defendant. The judgment will order the defendant to pay you in full within 21 days or tell you and the court where he/she works and the location of his/her bank accounts on form DC 87, Affidavit of Judgment Debtor.
3. If the defendant doesn't pay the judgment as ordered, you will have to collect your money through an **execution against property** or a **garnishment**.

What Is Execution Against Property?

Execution is a court procedure allowing a special deputy to seize property belonging to the defendant that can be sold to pay for your judgment. Use form **MC 19, Execution Against Property**.

What Is Garnishment?

Garnishment is a court procedure allowing you to collect your judgment directly from the defendant's wages, bank account, or other source such as income tax refunds.

How Do I Get an Execution Against Property or a Garnishment?

To get an execution against property or a garnishment, you will first need to know where the defendant lives and works, what assets he/she has and where these assets are located, and any other information which identifies the defendant and his/her property. If you don't have the information described above, you will need to file a **discovery subpoena**.

Filing a Discovery Subpoena

You must wait 21 days after your small claims judgment was signed before you can file a discovery subpoena. **Use form MC 11, Subpoena (Order to Appear)**. Contact the court for an appearance date before putting the date and location on the form. Complete the entire form. The judge must sign the subpoena for it to be effective. Once the subpoena is signed you must serve it on the defendant. The filing fee for the subpoena in Kalamazoo is \$15.00.

Filing an Execution Against Property

Wait 21 days after your judgment and then use form **MC 19, Execution Against Property** to start the process. The court will issue the writ (order) by signing the form, which will be executed by a sheriff or special deputy. Any property that is seized will be sold and the money given to you. The sheriff or special deputy is entitled to fees that will be deducted from the sale of the property.

Filing a Request for Garnishment

Wait 21 days after your judgment and then use either form MC 12 or MC 13 to start the garnishment process. There are **two** types of garnishment: **periodic** and **non-periodic**.

1. Periodic Writ of Garnishment (MC 12)

This form is used to garnish the defendant's wages, rent payments, land contract payments, or other debt which is paid to the defendant on a periodic basis. A periodic garnishment is valid for up to 91 days or until the judgment, interest, and costs are paid off, whichever occurs first.

2. Non-Periodic Writ of Garnishment (MC 13)

This form is used to garnish the defendant's bank account or other property. Once money has been garnished under the non-periodic writ, the writ is no longer valid. If there is a remaining balance on the judgment, you must get another writ to collect more money.